

METROPOLITAN AREA PLANNING COMMISSION

MINUTES

February 1, 2007

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, February 1, 2007, at 1:30 P.M., in the Planning Department Conference Room, 10th floor, City Hall, 455 North Main, Wichita Kansas. The following members were present: Darrell Downing, Chair; Don Anderson, Vice-Chair; Harold Warner, Jr.; John W. McKay, Jr.; Bob Aldrich; M.S. Mitchell; Bud Hentzen; Hoyt Hillman; Morris K. Dunlap and Michael Gisick. Elizabeth Bishop; Bill Johnson; Ron Marnell and Don Sherman were not present. Staff members present were: John L. Schlegel, Secretary; Dale Miller, Current Plans Manager; Donna Goltry, Principal Planner; Neil Strahl, Senior Planner; Bill Longnecker, Senior Planner; Derrick Slocum, Associate Planner and Maryann Crockett, Recording Secretary.

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1. Approval of the January 18, 2007 MAPC minutes.

MOTION: To approve the January 18, 2007 MAPC minutes with administrative adjustments.

MCKAY moved, **ANDERSON** seconded the motion, and it carried (8-0).

MORRIS DUNLAP in at 1:31 pm

❖ **SUBDIVISION ITEMS**

Items #2-1 to #2-4 may be taken in one motion unless there are questions or comments.

2. Consideration of Subdivision Committee recommendations from the meeting of January 25, 2007.

- 2-1** **SUB 2006-106: Revised One-Step Final Plat -- THE WATERFRONT 6TH ADDITION**, located on the north side of 13th Street North and east of Webb Road. (Deferred from 12/14/06)

NOTE: This is a replat of a portion of Lot 1, Block 1, Waterfront 5th Addition in addition to unplatted property. This revised plat has expanded to the north to include Reserve E.

STAFF COMMENTS:

- A. The applicant shall guarantee the extension of sanitary sewer and City water to serve the lots being platted.
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- C. As per City Engineering, the final drainage plan is approved subject to the following: a) the detention pond on the north side of Lot 1, Block 2 needs to be in a reserve, b) a 10-ft off-site drainage easement is needed, c) a drainage guarantee is needed.
- D. A minimum of 15-ft street drainage and utility easement is needed along Reserve D. A street drainage easement is needed along the street adjoining the Exception area.
- E. City Engineering has required that a private street be platted. In accordance with the Subdivision Regulations, the private street shall be platted as a Reserve for private street purposes and referenced in the plat's text.

- A Reserve has been platted as requested. It needs to be labeled as a private street.
- F. A covenant shall be submitted regarding the private street, which sets forth ownership and maintenance responsibilities.
 - G. Traffic/City Engineering has approved the 32-foot width of Lindberg Cir and the private street if restricted to No Parking on both sides of the street and constructed to commercial street thickness standards. A restrictive covenant shall be provided specifying the No Parking requirement.
 - H. The Applicant shall guarantee the paving of the proposed streets to commercial street thickness standards. For the Reserves being platted for private streets, improvements shall be guaranteed for construction to a public street standard (commercial street thickness); however as private improvements, guarantees cannot be provided through the use of petitions.
 - I. Since this plat proposes the platting of narrow street rights-of-way with adjacent "15-foot street drainage and utility easements", a restrictive covenant shall be submitted which calls out restrictions for lot-owner use of these easements. Retaining walls and change of grade shall be prohibited within these easements as well as fences, earth berms and mass plantings.
 - J. The sidewalk and utility easement shall be referenced in the plat's text.
 - K. The applicant shall submit an avigational easement covering all of the subject plat and a restrictive covenant assuring that adequate construction methods will be used to minimize the effects of noise pollution in the habitable structures constructed on subject property.
 - L. The Applicant is advised that if platted, the building setbacks may be reduced to 20 feet.
 - M. As per GIS, the private street needs to be named Edgewood or "Sport of Kings".
 - N. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
 - O. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
 - P. The applicant shall install or guarantee the installation of all utilities and facilities, which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
 - Q. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
 - R. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
 - S. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
 - T. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for

projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.

- U. Perimeter closure computations shall be submitted with the final plat tracing.
- V. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- W. The applicant is reminded that a compact disc (CD) shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD, or sent via e-mail to MAPD (cholloway@wichita.gov). This will be used by the City and County GIS Department.

MOTION: To approve subject to staff recommendations.

MITCHELL moved, **ALDRICH** seconded the motion, and it carried (9-0).

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- 2-2. SUB 2005-141: Final Plat -- NORTHGATE COMMERCIAL PARK 1st ADDITION**, located on the northwest corner of 53rd Street North and Meridian.

NOTE: This is a replat of the Maize State Bank Addition in addition to unplatted property. The site has been approved for a zone change (ZON 2006-25) from SF-5, Single-Family Residential to LC, Limited Commercial subject to platting. The Northgate Commercial Park Community Unit Plan (CUP 2006-24, DP-299) was also approved for this site (Parcels 1, 2, 3).

STAFF COMMENTS:

- A. The applicant shall guarantee the extension of sanitary sewer (main and lateral) and City water (main and lateral) to serve the lots being platted.
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- C. **City Engineering has approved the drainage plan subject to a) the detention ponds located along the north and west portions of the site be platted as Reserves, b) a drainage guarantee is needed.**
- D. In accordance with the CUP approval, the following transportation improvements are required. **Prior to final plat submittal, the applicant shall meet with the adjoining property owner to the west and north in regards to the petition submittal.**
 - 1. Guarantee signalization at the 54th Street and Meridian intersection.
 - 2. Guarantee a southbound right-turn lane and a fifth lane on Meridian from 54th to 53rd to allow left-turns.
 - 3. Guarantee the relocation of the existing signal to accommodate street improvements at the 53rd and Meridian intersection.
 - 4. Guarantee future signalization at major openings on 53rd Street when warrants are met.
 - 5. Guarantee a fifth lane along 53rd Street from driveway opening number three east to Meridian.
 - 6. Guarantee dual left-turn lanes on the west and south legs of the intersection of 53rd and Meridian, and provide separate right-turn lanes on all approaches.
 - 7. Guarantee installation of sidewalk on Meridian and 53rd Street North for entire frontage of property.
 - 8. Guarantee closure of 54th Street North at Meridian when warranted, subject to review of the proposed closure by the neighborhood in consultation with the Traffic Engineer prior to closure.
 - 9. Guarantee half of the installation and maintenance by separate instrument of the landscaping in

the medians of 53rd Street North.

- E. The final plat denotes three openings along Meridian and one opening along 53rd St. North. **The final plat shall reference the dedication of access controls in the plat's text. As per Traffic Engineering, the final plat tracing needs to denote three openings along 53rd St. North as previously denoted on the preliminary plat. The opening for Lot 3 shall be shifted 20 feet to the west.**
- F. In accordance with the CUP approval, a cross-lot circulation agreement is needed to assure internal vehicular movement between the lots.
- G. The joint access openings shall be established by separate instrument. Initial construction responsibilities and future maintenance of the driveway within the easement should also be addressed by the text of the instrument.
- H. A block shall be designated on the face of the plat.
- I. In accordance with the CUP, a wall easement is needed along the northwest corner of the plat, where the plat adjoins residential property. The wall easement shall be referenced in the plat's text.
- J. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- K. For those reserves being platted for drainage purposes, the required covenant which provides for ownership and maintenance of the reserves shall grant, to the appropriate governing body, the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- L. The perimeters of the proposed lots and access controls shall match the perimeters of the CUP parcel boundaries. A CUP adjustment will need to be approved prior to City Council review of the plat.
- M. The City needs to annex the arterial streets.
- N. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- O. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- P. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- Q. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- R. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be

developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.

- S. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in

Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.

- T. Perimeter closure computations shall be submitted with the final plat tracing.
- U. Recording of the plat within 30 days after approval by the City Council and/or County Commission.
- V. The representatives from the **utility companies** should be prepared to comment on the need for any additional utility easements to be platted on this property. **Westar Energy requests additional easements.**
- W. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: cholloway@wichita.gov). Please include the name of the plat on the disc.

MOTION: To approve subject to staff recommendations.

MITCHELL moved, **ALDRICH** seconded the motion, and it carried (9-0).

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- 2-3. SUB 2006-65: Final Plat -- HEDGE APPLE ESTATES ADDITION.** located on the northeast and southeast corners of 85th Street North and Oliver.

NOTE: This site is located in the County in an area designated as "rural" by the Wichita-Sedgwick County Comprehensive Plan.

STAFF COMMENTS:

- A. Since sanitary sewer is unavailable to serve this property, the applicant shall contact **County Code Enforcement** to find out what tests may be necessary and what standards are to be met for approval of on-site sewerage facilities. A memorandum shall be obtained specifying approval. **A detailed site plan (to scale) is needed showing how home and sewer system construction is planned for Lots 5,6,7,8 Block 2 and Lots 7,9,10 Block 1.**
- B. In conformance with the Urban Fringe Development Standards, for individual domestic wells that are proposed, a water availability evaluation must be provided to **Sedgwick County Code Enforcement** to assure the availability of an adequate, safe supply of water that does not impair existing water rights. Easements shall be dedicated for potential future extension of public water.
- C. The site is currently located within the Sedgwick County Rural Water District No. 2. If service is available, feasible and the property is eligible for service, **County Code Enforcement** recommends connection.
- D. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- E. As per County Engineering, the drainage plan is approved.**

- F. A Floodway reserve has been platted within individual lots to be maintained by homeowners' association.

Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.

- G. For those reserves being platted for drainage purposes, the required covenant that provides for ownership and maintenance of the reserves, shall grant to the appropriate governing body the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- H. The roads shall be built to the 36' road standard. A guarantee shall be provided. The guarantee shall include the installation of a temporary turnaround for Blue Ash.
- I. In accordance with Access Management Regulations for County plats, complete access control is required for arterials intersecting with collectors and local streets. Complete access control of 75 feet is needed along the cul-de-sacs from 85th St. North.
- J. **Sedgwick County Fire Department** advises that all access drives shall be in accordance with Sedgwick County Service Drive Code.
- K. In accordance with the KS Wetland Mapping Conventions under the Memorandum of Understanding between the USDA-NRCS; USEPA; USACE; and USF&WS, this site has been identified as one with potential wetland hydrology. The US Army Corps of Engineers (USACE) should be contacted (316-322-8247) to have a wetland determination completed.
- L. Various lots fronting on cul-de-sacs do not appear to conform to the 200-foot lot width standard, which is measured at the building setback line. An increase in the distance of the building setback from the road would meet the standard.
- M. **As per GIS, Bayberry Ct and Buckeye Ct should be replaced with Buckeye Cir. In addition, Blue Ash Road and Crabapple Court need to be replaced with either: a) Blue Ash St and Blue Ash Cir or b) Crabapple St and Crabapple Cir.**
- N. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- O. The 1:150 scale should be specified.
- P. The plat title should delete reference to Wichita.
- Q. On the final plat tracing, the signature line for the County Commissioners Chair needs to reference "David M. Unruh".
- R. The platlor's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- S. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- T. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- U. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-

946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.

- V. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- W. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- X. Perimeter closure computations shall be submitted with the final plat tracing.
- Y. Recording of the plat within 30 days after approval by the City Council and/or County Commission.
- Z. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: cholloway@wichita.gov). Please include the name of the plat on the disc.

MOTION: To approve subject to staff recommendations.

MITCHELL moved, **ALDRICH** seconded the motion, and it carried (9-0).

2-4. SUB 2006-98: Final Plat -- HUNTER HEALTH CLINIC 2ND ADDITION, located on the north side of Central and east of Hydraulic.

NOTE: This is a replat of the Hunter Health Clinic Addition and a portion of Stite's Bro's 2nd Addition. A zone change request (ZON 2006-49) from TF-3, Two-Family Residential to GO, General Office has been approved. The plat includes the vacation of a portion of Grove Street. The plat includes the vacation of an east-west alley and a portion of a north-south alley.

STAFF COMMENTS:

- A. Municipal services are available to serve the site. Sewer needs to be relocated to accommodate the proposed alley vacations. The existing water line needs to be relocated on Grove to accommodate the proposed right-of-way vacation or in the alternative the vacated right-of-way needs to be retained as an easement.
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- C. As per **City Engineering, the drainage plan is approved.**
- D. The plat proposes one access opening along Central and two openings along Grove. **As per Traffic Engineering, the access controls are approved.**
- E. As per **Traffic Engineering**, the proposed right-of-way is approved.
- F. A guarantee is required for the closure of the east-west alley return along the site's frontage to Grove and Spruce. An alley return Closure Certificate in lieu of a guarantee may be provided.

- G. The applicant shall guarantee the closure of any driveway openings located in areas of complete access control or that exceed the number of allowed openings. A Driveway Closure Certificate in lieu of a guarantee may be provided.
- H. Since the vacation of the north-south alley has created an off-site stub, a dedication of right-of-way will be needed from the applicant or adjoining landowner extending from the alley to Spruce.

A 24-foot dedication of right-of-way for an alley has been platted.
- I. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- J. The applicant will be platting a Reserve in lieu of Lot 2 for parking, lighting and landscaping uses. Provisions shall be made for ownership and maintenance of the proposed reserves. A covenant shall be submitted regarding ownership and maintenance responsibilities.
- K. The platlor's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- L. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- M. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- N. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- O. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- P. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- Q. Perimeter closure computations shall be submitted with the final plat tracing.
- R. Recording of the plat within 30 days after approval by the City Council and/or County Commission.
- S. **Westar Energy has requested that utility easements shall be retained for the facilities located within the alleys, or in the alternative, the facilities will need to be relocated at applicant's expense.**

The applicant will relocate the facilities and establish a temporary easement over the facilities until relocation.

- T. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: cholloway@wichita.gov). Please include the name of the plat on the disc.

MOTION: To approve subject to staff recommendations.

MITCHELL moved, **ALDRICH** seconded the motion, and it carried (9-0).

BUD HENTZEN in at 1:33 pm

❖ **PUBLIC HEARINGS – VACATION ITEMS**

- 3-1. **VAC2006-44: Request to vacate a portion of a platted easement**, generally located west of 135th Street West, north of Kellogg/US-54, on the northeast corner of Auburn Hills Street & Harry Drive.

OWNER/APPLICANT: Rolling Hills Baptist c/o Kevin Broce & David Erwin (owner)
J Russell Communities c/o Jay Russell (applicant)

AGENT: Baughman Company, PA, c/o Phil Meyer

LEGAL DESCRIPTION: The platted 20-foot utility easement that runs parallel to the west lot line of Lot 1, Block A, Fellowship Addition, Wichita, Sedgwick County, Kansas.

LOCATION: Generally located west of 135th Street West, north of Kellogg/US-54, on the northeast corner of Auburn Hills Street & Harry Drive (WCC #V)

REASON FOR REQUEST: Off-site project title sign for subdivision.

CURRENT ZONING: Site, all abutting and adjacent properties are zoned "GC" General Commercial, except for "SF-5" Single-family Residential zoned property located northwest of the site, across Auburn Hills Street.

The applicant proposes to vacate the described platted easement. The applicant proposes to place an off-site project title sign for the adjacent subdivision. An off-site project title sign for the adjacent subdivision is permitted per 24.04.190, 6, a-i, (1)-(4) of the City of Wichita Sign Code. There are no manholes, sewer or water lines in the easement. Water and sewer are located west of the site, across Auburn Hills Street, in the Auburn Hills 15th Addition (recorded February 13, 2004). There are no franchised utilities in the easement. A portion of the easement will be retained to allow water & sewer service to the site. Properties north of the site are not platted and are not developed, with the exception of one large tract with a single-family residence. The site is Lot 1, Block A, Fellowship Addition, which was recorded with the Register of Deeds September 22, 1994.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from City Public Works, franchised utility representatives and other interested parties, Planning Staff recommends approval to vacate the described portion of a platted easement with conditions.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:

1. That due and legal notice has been given by publication as required by law, by publication in the Wichita Eagle of notice of this vacation proceeding one time December 14, 2006 which was at least 20 days prior to this public hearing.

2. That no private rights will be injured or endangered by the vacation of the above described portion of a platted easement and the public will suffer no loss or inconvenience thereby.
3. In justice to the petitioner, the prayer of the petition ought to be granted.

B. Therefore, the vacation of the portion of the platted easement described in the petition should be approved with conditions;

- (1) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicant.
- (2) Retain a portion of the easement, as directed by Public Works, to allow the extension of water and sewer to the site. Provide Planning Staff with a legal description of the retained easement on a Word document via e-mail.
- (3) As needed, as determined by Public Works, provide/dedicate additional right-of-way for the that portion of Auburn Hills Street that runs parallel to the west side of the site. Provide Planning Staff the original dedication to be filed with the Register of Deeds with the Vacation Order.
- (4) All improvements shall be according to City Standards and at the applicant's expense.
- (5) Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Prior to the vacation case going to MAPC for consideration and recommendation, resolve the issues of possible retention of portions of the easement for utilities. Upon resolution send to the MAPC for consideration and recommendation.
- (2) If needed, any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicant.
- (3) Retain a portion of the easement, as directed by Public Works, to allow the extension of water and sewer to the site. Provide Planning Staff with a legal description of the retained easement on a Word document via e-mail.
- (4) As needed, as determined by Public Works, provide/dedicate additional right-of-way for the that portion of Auburn Hills Street that runs parallel to the west side of the site. Provide Planning Staff the original dedication to be filed with the Register of Deeds with the Vacation Order.
- (5) All improvements shall be according to City Standards and at the applicant's expense.
- (6) Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds

MOTION: To approve subject to staff recommendations.

HENTZEN moved, **MCKAY** seconded the motion, and it carried (10-0).

3-2. VAC 2006-46: Request to vacate a portion of an easement dedicated by separate instrument, generally located on the northwest corner of Maple Street and Maize Road.

APPLICANTS/OWNERS: AIS, LLC. c/o David Dettwiler

AGENT: Poe & Associates, Inc. c/o Tim Austin

LEGAL DESCRIPTION: Generally described as a 12-foot wide portion of the 20-foot wide easement dedicated by separate instrument (Film/Page 28632237, see Exhibit provided by applicant) located in the south portion of Lot 1, Block 1, Oak Cliff Estates 4th Addition, Wichita, Sedgwick County, Kansas

LOCATION: Generally located northwest of the Maize Road – Maple Street intersection. (WCC District #V)

REASON FOR REQUEST: Development and encroachment into a portion of easement

CURRENT ZONING: The site and abutting/adjacent southern, western and eastern properties are zoned “LC” Limited Commercial. Abutting northern properties are zoned “GO” General Office & “MF-29” Multi-family Residential.

The applicant has applied for the vacation of the described easement dedicated by separate instrument. There does not appear to be utilities, manholes, sewer or water lines in the easement. The site is part of CUP DP-104. The Oak Cliff Estates 4th Addition was recorded with the Register of Deeds December 23, 1988

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from Public Works, franchised utility representatives and other interested parties, Planning Staff recommends approval to vacate a portion of the easement dedicated by separate instrument, with conditions.

A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:

1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle, of notice of this vacation proceeding one time January 11, 2007 which was at least 20 days prior to this public hearing.
2. That no private rights will be injured or endangered by the vacation of the above-described portion of easement dedicated by separate instrument and the public will suffer no loss or inconvenience thereby.
3. In justice to the petitioner, the prayer of the petition ought to be granted.

B. Therefore, the vacation of the portion of the easement dedicated by separate instrument described in the petition should be approved with conditions;

1. Any relocation or reconstruction of the storm water line or other utilities located in the easement made necessary by this vacation shall be the responsibility of the applicants and at the applicant's expense. If necessary provide a letter of credit, petition or whatever method Public Work's requires to ensure that utilities, including storm water, are relocated or reconstructed. If needed provided Public Works with any necessary plans for review and approval of relocated storm water or other utilities. Provide Planning with an easement, as approved by storm water, to be recorded with the Register of Deeds. Retain the easement

until all utilities have been relocated. Provide Planning staff with a legal description of the approved vacated (portion) of the easement on a word document via e-mail.

2. All improvements shall be according to City Standards, at the applicant's expense.
3. Per MAPC Policy Statement #7 all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

1. Any relocation or reconstruction of the storm water line or other utilities located in the easement made necessary by this vacation shall be the responsibility of the applicants and at the applicant's expense. If necessary provide a letter of credit, petition or whatever method Public Work's requires to ensure that utilities, including storm water, are relocated or reconstructed. If needed provided Public Works with any necessary plans for review and approval of relocated storm water or other utilities. Provide Planning with an easement, as approved by storm water, to be recorded with the Register of Deeds. Retain the easement until all utilities have been relocated. Provide Planning staff with a legal description of the approved vacated (portion) of the easement on a word document via e-mail.
2. All improvements shall be according to City Standards, at the applicant's expense.
3. Per MAPC Policy Statement #7 all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

MOTION: To approve subject to staff recommendations.

HENTZEN moved, **MCKAY** seconded the motion, and it carried (10-0).

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- 3-3. VAC 2006-47: Request to vacate a portion of platted public street right-of-way**, generally located south of 27th Street North, between Hillside Avenue and Chautauqua Street.

<u>APPLICANTS:</u>	Mennonite Housing Calvary Baptist Church
<u>LEGAL DESCRIPTION:</u>	Generally described as the platted 60-foot wide undeveloped 26 th Street North ROW as dedicated on the Agee - Hunter Addition, Wichita, Sedgwick County, Kansas
<u>LOCATION:</u>	Generally located between Chautauqua & Hillside Avenues and south of 27 th Street North (WCC II)
<u>REASON FOR REQUEST:</u>	Revert to private property for redevelopment
<u>CURRENT ZONING:</u>	The site is platted undeveloped public ROW. All abutting northern, & adjacent eastern & western properties are zoned "SF-5" Single-family Residential. The abutting southern property is zoned "B" Multi-family Residential.

The applicant is requesting vacation of the described platted undeveloped portion of 26th Street North. There are sewer lines and manholes in this portion of the ROW. Westar has utilities in this portion of 26th. There are no water lines in this portion of 26th. There are no platted setbacks that run parallel to the proposed vacated ROW. The owner of the property abutting the northeast portion of 26th has not signed the application or the petition to vacate: Church of the Living God, Lots 5 & 6, Block 3, Agee – Hunter Addition. Without this signature only half of the length of the ROW, from Chautauqua to Lorraine Avenues can be vacated. The Agee – Hunter Addition was recorded with the Register of Deeds June 2, 1954. The Calvary Baptist Addition, which was a replat of a portion of the Agee – Hunter Addition, was recorded with the Register of Deeds July 30, 1973.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from City Public Works, franchised utility representatives and other interested parties, Planning Staff recommends approval to vacate the portion of the platted 26th Street North ROW, as described with conditions.

A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:

- 1) That due and legal notice has been given by publication as required by law, in the Wichita Eagle, of notice of this vacation proceeding one time January 11, 2007 which was at least 20 days prior to this public hearing.
- 2) That no private rights will be injured or endangered by the vacation of the above-described portion of platted street ROW and the public will suffer no loss or inconvenience thereby.
- 3) In justice to the petitioner, the prayer of the petition ought to be granted.

B. Therefore, the vacation of the portion of the platted 26th Street North ROW described in the petition should be approved with conditions;

1. Provide staff with a restrictive covenant tying and binding the vacated ROW to the participating abutting, directly opposed northern and southern properties. Currently the participating abutting properties are Lots 5 & 6, Block 4, Agee – Hunter Addition (north side) and that portion of Lot 1, Calvary Baptist Addition, that is directly opposite (south side).
2. Retain that portion of ROW, or the entire ROW, as needed for utility easements: there is sewer line and manholes in the ROW and Westar has equipment in the ROW. Provide Planning Staff with a Public Works/Water & Sewer/franchised utilities approved legal description (on a Word document via E-Mail) of that portion of the vacated ROW needed as easement.
3. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicants. If necessary provide a letter of credit, petition or whatever method Public Work's requires to ensure that utilities are relocated or reconstructed. If needed Provide Public Works/Storm Water with any necessary plans for review and approval of relocated sewer line and manholes. If needed retain the easements until utilities have been relocated.
4. As needed provide Planning Staff with Public Works/Water & Sewer/franchised utilities approved original easements (to be sent with the Vacation Order to be recorded with the Register of Deeds) for any relocated public utilities.
5. All improvements shall be according to City Standards, including as needed cul-de-sacs and/or dedications of public access, as approved to prevent the creation of dead-end streets. Either continue the curb and gutter along Chautauqua Avenue unbroken, retain a portion (20-foot wide) 26th Street North as public ROW, or construct a private drive. Provide Public Works with a letter of credit, petition or whatever method Public Works requires to ensure the needed improvements.

6. Per MAPC Policy Statement #7 all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

- 1) Provide staff with a restrictive covenant tying and binding the vacated ROW to the participating abutting, directly opposed northern and southern properties. Currently the participating abutting properties are Lots 5 & 6, Block 4, Agee – Hunter Addition (north side) and that portion of Lot 1, Calvary Baptist Addition, that is directly opposite (south side).
- 2) Retain that portion of ROW, or the entire ROW, as needed for utility easements: there is sewer line and manholes in the ROW and Westar has equipment in the ROW. Provide Planning Staff with a Public Works/Water & Sewer/franchised utilities approved legal description (on a Word document via E-Mail) of that portion of the vacated ROW needed as easement.
- 3) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicants. If necessary provide a letter of credit, petition or whatever method Public Work's requires to ensure that utilities are relocated or reconstructed. If needed Provide Public Works/Storm Water with any necessary plans for review and approval of relocated sewer line and manholes. If needed retain the easements until utilities have been relocated.
- 4) As needed provide Planning Staff with Public Works/Water & Sewer/franchised utilities approved original easements (to be sent with the Vacation Order to be recorded with the Register of Deeds) for any relocated public utilities.
- 5) All improvements shall be according to City Standards, including as needed cul-de-sacs and/or dedications of public access, as approved to prevent the creation of dead-end streets. Either continue the curb and gutter along Chautauqua Avenue unbroken, retain a portion (20-foot wide) 26th Street North as public ROW, or construct a private drive. Provide Public Works with a letter of credit, petition or whatever method Public Works requires to ensure the needed improvements.
- 6) Per MAPC Policy Statement #7 all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

MOTION: To approve subject to staff recommendations.

HENTZEN moved, **MCKAY** seconded the motion, and it carried (10-0).

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- 3-4. **VAC 2006-48: Request to vacate platted wall and utility easements**, generally located 1/4-mile south of US-54/Kellogg Street, on the east side of 127th Street East.

APPLICANTS/OWNERS: Country Hollow, LLC c/o Rob Ramseyer

- AGENT:** MKEC Engineering Consultants, Inc. c/o Brian Lindebak
- LEGAL DESCRIPTION:** Generally described as the platted 5-foot wall easement and platted 20-foot drainage/utility easement located on the west 25-feet of the west line of Lots 1, 2, 3, 4, & 5, Block 1, Lots 7, 8, 22 & 23, Block 2, Reserves B & C, all in the Country Hollows Addition, Wichita, Sedgwick County, Kansas.
- &
- The platted 20-foot drainage/utility easement located equally between Lots 19 & 20 and 10-feet of the platted 20-foot utility/drainage easement located equally between Lots 24 & 25, all in Block 2, all in the Country Hollows Addition, Wichita, Sedgwick County, Kansas.
- LOCATION:** Generally located approximately ¼-mile south of US-54/Kellogg Street, on the east side of 127th Street East (WCC #II)
- REASON FOR REQUEST:** Relocate wall and drainage easement, associated with existing pipeline, and remove two easements located in side yards.
- CURRENT ZONING:** The site and the abutting and adjoining southern, northern, eastern and western properties are zoned are zoned "SF-5" Single-family Residential. An adjacent western property is zoned "LI" Limited Industrial.

The applicant has applied for the described vacation of the easements. The applicant proposes to shift both the wall and utility easements, which run parallel to their west lot/reserve lines, to the east. The applicant does not propose to replace or relocate the two utility/drainage easements located in side yards. There appears to be manholes, sewer and water lines located at the intersection of the subject easements and other platted easements. The Country Hollow Addition was recorded with the Register of Deeds December 9, 2005.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from Public Works, Storm Water, franchised utility representatives and other interested parties, Planning Staff recommends approval to vacate a portion of the platted utility, utility/drainage and wall easements, with conditions.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, by publication in the Wichita Eagle of notice of this vacation proceeding one time January 11, 2007 which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by the vacation of the above-described portion of platted utility, utility/drainage and wall easements and the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner, the prayer of the petition ought to be granted.
- B. Therefore, the vacation of a portion of the platted complete access control and the platted wall easement described in the petition should be approved with conditions;
1. Dedicate additional replacement easements as required. Provide Planning Staff with the reviewed and approved originals, to go with the Vacation Order for recording with the Register of Deeds.
 2. Show the exact location of the proposed replacement wall easement in its proximity to existing sewer lines and manholes. Public Works may require a hold harmless agreement if proposed wall easement is located too close to existing sewer line and manholes.

3. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants. Public Works may require the sewer and manholes to be relocated if the proposed wall easement is located too close to existing sewer line and manholes. If necessary provide a letter of credit, petition or whatever method Public Work's requires to ensure that utilities are relocated or reconstructed, if needed.
4. All improvements shall be according to City Standards and at the applicant's expense.
5. Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions;

1. Dedicate additional replacement easements as required. Provide Planning Staff with the reviewed and approved originals, to go with the Vacation Order for recording with the Register of Deeds.
2. Show the exact location of the proposed replacement wall easement in its proximity to existing sewer lines and manholes. Public Works may require a hold harmless agreement if proposed wall easement is located too close to existing sewer line and manholes.
3. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants. Public Works may require the sewer and manholes to be relocated if the proposed wall easement is located too close to existing sewer line and manholes. If necessary provide a letter of credit, petition or whatever method Public Work's requires to ensure that utilities are relocated or reconstructed, if needed.
4. All improvements shall be according to City Standards and at the applicant's expense.
5. Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

MOTION: To approve subject to staff recommendations.

HENTZEN moved, **MCKAY** seconded the motion, and it carried (10-0).

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- 3-5. **VAC 2006-49: Request to vacate a portion of platted setbacks,** generally located south of 21st Street North and east of 127th Street East.

APPLICANT/OWNER: Reed 127th Commercial c/o Ritchie Development, Rob Ramseyer

AGENT: MKEC Engineering Consultants, Inc. c/o Brian Lindebak

LEGAL DESCRIPTION: The east 15-feet of the platted 50-foot setback that runs parallel to the west lot line of Lot 1 and 127th Street East and the south 65-feet of the platted 100-foot setback that runs parallel to 21st Street North and the

north lot line of Lot 1, all in Block 1, the Reed Commercial Addition, Wichita, Sedgwick County, Kansas.

LOCATION: Generally located southeast of 21st Street North & 127th Street East (WCC #II)

REASON FOR REQUEST: Associated boundary shifts reflecting new ownership

CURRENT ZONING: The site, abutting eastern & western and adjacent northern properties are zoned "LC" Limited Commercial. Abutting southern property is zoned "MF-18" Multi-family Residential. Adjacent western property is zoned "SF-5" Single-family Residential. The site is located within CUP DP-222.

The applicant proposes to vacate the described portions of the platted setbacks, the result being 35-foot setbacks along both sides of the subject site. This case is associated with CUP2006-51, DP-222, a proposed CUP adjustment, which includes the setback reductions and a Boundary Shift for Lots 1, 2, 3, 4 & 5, Block 1, the Reed Commercial Addition. The proposed Boundary Shifts reflect new ownership and redevelopment of the CUP. The Unified Zoning Code's (UZC's) minimum street side setback for a CUP is 35-feet. There are platted 20-foot utility easements in the platted setbacks that would not be affected by the proposed vacation. There appears to be sewer line and manholes in those easements. The Reed Commercial Addition was recorded with the Register of Deeds January 14, 2003.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from City Public Works, franchised utility representatives and other interested parties, Planning Staff recommends approval of the vacation of the described portions of the platted setbacks (from 50-feet to 35-feet and from 100-feet to 35-feet), with conditions.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, by publication in the Wichita Eagle of notice of this vacation proceeding one time January 11, 2007 which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by the vacation of the above-described portion of the platted setbacks and the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner, the prayer of the petition ought to be granted.
- B. Therefore, the vacation of the portion of the platted setbacks, described in the petition should be approved with conditions;
1. Approval of the vacation request is contingent upon approval of CUP2006-51. Provide Planning Staff with copies of approved CUP2006-51.
 2. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicant's expense.
 3. All improvements shall be according to City standards and at the applicant's expense.
 4. Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

- 1) Approval of the vacation request is contingent upon approval of CUP2006-51. Provide Planning Staff with copies of approved CUP2006-51.
- 2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicant's expense.
- 3) All improvements shall be according to City standards and at the applicant's expense.
- 4) Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds

MOTION: To approve subject to staff recommendations.

HENTZEN moved, **MCKAY** seconded the motion, and it carried (10-0).

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- 3-6. VAC 2006-50: Request to vacate portions of platted setback(s) and a reserve.** generally located midway between 21st and 13th Streets North, west of Webb Road, on the north side of Foliage Drive.

APPLICANT/AGENT: CJ Lett III MKEC Engineering c/o Brian Lindebak

LEGAL DESCRIPTION: Generally described as the south 10-feet of the platted 35-foot front yard setback on Lot 6, Block 2, the 30-foot wide portion of the platted Reserve B, that is located between Lots 5 & 6, Block 2, and the plat text's restriction of uses in regards to uses allowed in the described portion of Reserve B, all in the Foliage Addition, Wichita, Sedgwick County, Kansas

LOCATION: Generally located midway between 13th and 21st Streets North, west of Webb Road, on the north side of Foliage Drive (a private street: platted Reserve A)
(WCC #II)

REASON FOR REQUEST: Additional room to build onto a single-family residence

CURRENT ZONING: Subject property and all abutting and adjacent properties are zoned "SF-5" Single-family Residential.

The applicant is requesting consideration for the vacation of the south 10-feet of the platted 35-foot front yard setback. The minimum front yard setback, per the Unified Zoning Code is 25-feet, for the "SF-5" zoned subject site: Lot 6, Block 2, Foliage Addition. The proposed vacated portion of platted Reserve B is located between Lots 5 & 6, Block 2, the Foliage Addition. This is a 30-foot wide portion of the reserve. The uses that Reserve B has been set aside for include sidewalks, recreation, drainage, open spaces and the construction and maintenance of public utilities. It appears that there is a manhole and sewer line located in a platted easement that crosses through the south portion of the reserve. There are no Storm Water or franchised utilities in the described reserve. Per the plat's text the Foliage, a landowners association, had owned the described portion of the reserve, but the ownership list (provided by the applicant) shows the north 24-feet of the reserve to be owned by the applicant, Lot 6, and the south 6-feet

of the reserve to be owned by Lot 5, who has not signed the application or petition to vacate the reserve. The Foliage Addition was recorded with the Register of Deeds November 20, 1980.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from City Public Works, Storm Water, franchised utility representatives, and other interested parties, Planning Staff recommends approval to vacate the south 10-feet of the platted 35-foot platted front yard setback and the north 24-feet of the platted Reserve B and the uses of that portion of the platted Reserve B as described in the legal description to allow that portion of the platted reserve to revert into private property and to allow "SF-5" uses in that portion of the vacated reserve.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, by publication in the Wichita Eagle of notice of this vacation proceeding one time January 11, 2007 which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by the vacation of the above-described portion of the platted setback, the platted reserve and the uses allowed in the vacated portion of the platted reserve and the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner, the prayer of the petition ought to be granted.
- B. Therefore, the vacation of the portions of the platted setback, the platted reserve and the uses allowed in the vacated portion of the platted reserve described in the petition should be approved subject to the following conditions:
1. Vacate the 24-foot wide portion of the platted Reserve B that abuts and runs parallel to the south side yard lot line of Lot 6, Block 2, the Foliage Third Addition.
 2. Vacate the use restrictions as listed in the approved vacated portion of the platted Reserve B to allow only "SF-5" zoning district uses and utilities confined to easements.
 3. Provide Planning Staff with a copy of the deed binding and tying the vacated portion of Reserve B to Lot 6, Block 2, the Foliage Addition.
 4. Obtain the signature of Lot 5, Block 2, the Foliage Addition, to vacate the south 6-feet of the platted 30-foot portion of Reserve B, that abuts the north lot line of said lot. If the signature is obtained, conditions 1, 2, & 3 will be applied to this portion of the platted reserve.
 5. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
 6. All improvements shall be according to City Standards and at the owner's expense.
 7. Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

1. Vacate the 24-foot wide portion of the platted Reserve B that abuts and runs parallel to the south side yard lot line of Lot 6, Block 2, the Foliage Third Addition.

2. Vacate the use restrictions as listed in the approved vacated portion of the platted Reserve B to allow only "SF-5" zoning district uses and utilities confined to easements.
3. Provide Planning Staff with a copy of the deed binding and tying the vacated portion of Reserve B to Lot 6, Block 2, the Foliage Addition.
4. Obtain the signature of Lot 5, Block 2, the Foliage Addition, to vacate the south 6-feet of the platted 30-foot portion of Reserve B, that abuts the north lot line of said lot. If the signature is obtained, conditions 1, 2, & 3 will be applied to this portion of the platted reserve.
5. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
6. All improvements shall be according to City Standards and at the owner's expense.
7. Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds

MOTION: To approve subject to staff recommendations.

HENTZEN moved, **MCKAY** seconded the motion, and it carried (10-0).

❖ **PUBLIC HEARINGS**

4. **Case No.: CUP2006-56** – Greg Norris and Russ Norris, c/o Norris Real Estate (owner), Go wireless of Kansas (co-applicant) and Sign A Rama (agent) Request DP-164 Westwind II Commercial Community Unit Plan Amendment #3 to allow a continuous movement message board on Parcel 5B on property described as;

Lot 5, EXCEPT the East 250 feet thereof, Westwind 3rd Addition, Sedgwick County, Kansas. Generally located south of 21st Street North approximately 600 feet east of Tyler Road.

BACKGROUND: The applicant requests Amendment #3 for Parcel 5B of DP-164 Westwind III Commercial Community Unit Plan to change the signage provisions for this parcel. The applicant wishes to have a continuous movement building wall sign. The sign would be approximately 3.5' x 8'. The subject property is zoned "LC" Limited Commercial and is located on the south side of 21st Street North approximately 600 feet east of Tyler Road.

The rest of DP-164 is zoned LC and is developed with several restaurants, offices, banking institutions, retail strip centers, a vet clinic, a car wash and mini-storage. The property to the north is zoned LC, with an interior portion of a parcel zoned "GC" General Commercial, and the property to the northeast is zoned "SF-5" Single-family Residential. Commercial uses on the north side of 21st Street North include several small retail strip centers, a large charter bus company and some medical offices. None of the commercial uses on the north and east of Tyler Road are located within a community unit planned development and have perhaps one of the highest concentrations of high intensity signage along 21st Street North between Ridge and 151st Street North, including two continuous movement signs plus a billboard. The SF-5 property to the northeast is an entrance to DP-170 Reflection Ridge Residential Community Unit Plan, which is a planned residential development and golf course, and a church. East of the CUP, a large recreation and entertainment complex is located on property zoned GC. The property to the south is located in DP-165 Westwind II Residential Community Unit Plan. It is zoned "TF-3" Two-family Residential and developed with apartments at no greater density than allowed in the TF-3 zoning district.

CASE HISTORY: The property is platted as Westwind 3rd Addition, recorded June 3, 1987. DP-164 Westwind II Commercial Community Unit Plan, was originally approved in 1986. Amendment #1 was approved March 1, 1994 and allowed car wash and automotive repair on Parcels 5A and 5B, subject to additional CUP restrictions including prohibition on flashing or moving signs. Amendment #2 was approved December 3, 1998 and allowed Parcel 4 to be developed with warehouse, mini-storage, subject to CUP provisions and conditional use provisions for this use.

ADJACENT ZONING AND LAND USE:

NORTH:	LC, GC, SF-5	Retail strip centers, charter bus company, medical offices, entrance to Reflection Ridge, church
SOUTH:	TF-3	Apartments
EAST:	LC, GC	Office, car wash, recreation and entertainment complex
WEST:	LC	Restaurants, strip center, financial, vet clinic, mini-storage

PUBLIC SERVICES: The proposed amendment pertains only to signage regulations and has no significant impact on public services.

CONFORMANCE TO PLANS/POLICIES: The City of Wichita Sign Code as amended November 2004 defined electronic message signs as:

“A variable message sign that utilizes computer-generated messages or some other electronic means of changing copy. These signs include displays using incandescent lamps, LEDs, LCDs or a flipper matrix, and also enable changes to be made to messages from locations other than at the sign. Electronic message signs shall be classified as animated, flashing or moving signs when the rate of copy and/or graphic changes is more than one change per second.”

DP-164 currently prohibits moving or flashing signs (except time and temperature signs) on Parcel 5B. The CUP is located on property shown as “local commercial” on the “Wichita Land Use Guide, as amended May 2005” of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan*. Property with this designation should have more subdued signage to blend better with residential uses nearby.

RECOMMENDATION: Requests for continuous movement electronic message signs (signs that change copy or graphics more than one change per second) are becoming more common as the technology has advanced. In this particular case, the rest of the CUP does not prohibit moving signs except Parcel 5A, nor do the properties to the north.

Based upon information available prior to the public hearings, planning staff recommends that the CUP be amended as follows:

1. Parcel 5B.F shall be revised to state: “No off-site, billboards or portable signs shall be permitted. Electronic message signs that are classified as animated, flashing or moving by the Wichita Sign Code or create the illusion of movement shall be restricted to 30 percent of power after dusk.
2. Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.
3. The transfer of title of all or any portion of the land included within the Community Unit Plan does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land for commercial development and be binding upon the present owners, their successors and assigns, unless amended.
4. The applicant shall submit 4 revised copies of the C.U.P. to the Metropolitan Area Planning Department within 60 days after approval of this case by MAPC, or the Governing Body, if required, or the request shall be considered denied and closed.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: DP-164 is zoned LC and is developed with several restaurants, offices, banking institutions, retail strip centers, a vet clinic, a car wash, and mini-

storage. The property to the north is zoned LC, with an interior portion of a parcel zoned "GC" General Commercial, and the property to the northeast is zoned "SF-5" Single-family Residential. Commercial uses on the north side of 21st Street North include several small retail strip centers, a large charter bus company and some medical offices. None of the commercial uses on the north and east of Tyler Road are located within a community unit planned development and have perhaps one of the highest concentrations of high intensity signage along 21st Street North between Ridge and 151st Street North, including two continuous movement signs plus a billboard. The SF-5 property to the northeast is an entrance to DP-170 Reflection Ridge Residential Community Unit Plan, which is a planned residential development and golf course, and a church. East of the CUP, a large recreation and entertainment complex is located on property zoned GC. The property to the south is located in DP-165 Westwind II Residential Community Unit Plan. It is zoned "TF-3" Two-family Residential and developed with apartments at no greater density than allowed in the TF-3 zoning district.

2. The suitability of the subject property for the uses to which it has been restricted: The property is zoned "LC" Limited Commercial, and is currently developed with a small retail/office building. The proposed changes to the signage regulations are unnecessary for the subject property to be suitable for the signage that is permitted although it is more restrictive than for the commercial properties to the north and west.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The proposed recommendation to limit the intensity at night will keep this sign from being brighter than the electronic signs already nearby but will add to the already-proliferating electronic moving signs in the vicinity that seem out of character with the Reflection Ridge Residential Community Unit Plan neighborhood to the north and east.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The City of Wichita Sign Code as amended November 2004 defined electronic message signs as:
"A variable message sign that utilizes computer-generated messages or some other electronic means of changing copy. These signs include displays using incandescent lamps, LEDs, LCDs or a flipper matrix, and also enable changes to be made to messages from locations other than at the sign. Electronic message signs shall be classified as animated, flashing or moving signs when the rate of copy and/or graphic changes is more than one change per second."
DP-164 currently prohibits moving or flashing signs (except time and temperature signs) on Parcel 5B. The CUP is located on property shown as "local commercial" on the "Wichita Land Use Guide, as amended May 2005" of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan*. Property with this designation should have more subdued signage to blend better with residential uses nearby.
5. Impact of the proposed development on community facilities: Staff has heard comments from the community alleging that moving, flashing signs may confuse motorists.

DONNA GOLTRY Planning staff presented the staff report

ALDRICH asked if there was a revised policy on electronic signs?

GOLTRY responded not yet.

It was noted for the record that neither the agent nor the applicant was present.

MOTION: To approve subject to staff recommendations.

MCKAY moved, **ANDERSON** seconded the motion, and it carried (10-0).

5. **Case No.: CUP2006-58** - (owner) Wal-Mart Stores Inc., c/o Jennifer Hedges, (applicant) Guaranteed Auto Finance c/o Roger McMennamy, (agent) Baughman Company, c/o Terry Smythe

Request DP-43 Kinkaid Community Unit Plan Amendment #4 to permit vehicle and equipment sales (outdoors) on Parcels 2B and 2C on property described as;

Lots 2 and 3, Block A, Replat of Part of Kinkaid Park Addition, Sedgwick County, Kansas.
Generally located south of Pawnee and east of Broadway.

BACKGROUND: The Kinkaid Community Unit Plan (CUP) is located at the southeast corner of Broadway Avenue and Pawnee Avenue, and is divided into nine development parcels, with each parcel containing specific development standards. The application area is located in Parcels 2B and 2C, and has a base zoning of "GC", General Commercial, but according to the CUP (General Provision #13), these two parcels, along with two other parcels in the CUP, are only allowed to be developed with any commercial use permitted by-right in the "LC", Limited Commercial District, excluding night club in city, sexually oriented business, tavern and drinking establishment. Wal-Mart owns parcels 2A, 2B, 2C and 2D out of the nine parcels within the CUP, totaling 23.73 acres of the 61.10-acre CUP, and are seeking an amendment to allow "used vehicle sales, vehicle and equipment sales (outdoor)" to occur on Parcels 2B and 2C. If the request is approved, Guaranteed Auto Finance Inc. intends to purchase the site and use it for automotive retail and related finance company.

Parcels 2B and 2C are currently not developed and are located on the north side of the Wal-Mart parking lot.

This auto retailer would provide pre-owned, reconditioned vehicles to prospective buyers with on-site vehicle financing. The auto retailer, Auto Master, currently has ten other locations in Arkansas, Oklahoma and Missouri. This would be the first one in the state of Kansas. This dealership, according to their website, averages 6,000 vehicles sold a year. According to the site plan, the applicant will have approximately 120 spaces for vehicle display.

Access to the site is from Pawnee Avenue, through Wal-Mart's parking lot and access from Broadway Avenue is also through the Wal-Mart parking lot.

Parcel 1, located on the northwest corner of the CUP, is owned by Michaelis Real Estate and is developed with an auto parts store and restaurant. Parcels 2E and 2F, located on the west side and southwest corner of the CUP, respectively, are owned by Wichita Place I L.L.C. and are developed as vacant commercial land (2E) and a strip mall (2F). Parcel 3, located on the northeast corner of the CUP, is developed with a bank. Parcel 4 is located on the south side of the CUP, the northwest half owned by Riverwalk Apartments, and the southeast half owned by the City of Wichita, and is developed as an apartment complex.

Currently, Parcels 2B and 2C permits uses that are permitted by-right in the "LC" zone district, excluding night club in city, sexually oriented businesses, tavern and drinking establishments.

Land to the north is developed with commercial uses, and land to the south, east and west is all part of the Kinkaid CUP.

The property is a level, grass covered site with a bus stop on the south property line. Currently there are no signs or any other architectural features on the site.

CASE HISTORY: The property was platted as Kinkaid Park Addition, recorded on December 12, 1972. DP-43 Kinkaid C.U.P. was approved originally in 1971, and has been amended three other times in 1973, 1981 and 2003.

ADJACENT ZONING AND LAND USE:

NORTH:	"LC"	Restaurant & Auto Parts Store
SOUTH:	"GC"	Wal-Mart (Parking Lot)
EAST:	"GC"	Restaurant & Auto Parts Store
WEST:	"GC"	Wal-Mart (Parking Lot)

PUBLIC SERVICES: All normal public services are available. Broadway Avenue and Pawnee Avenue are both paved four-lane arterials. The intersection is signalized and left-turn lanes are constructed approaching the intersection. A right turn deceleration lane is constructed from the northern drive to Parcel 2A. Average 2006 daily traffic volumes for Broadway Avenue are 14,742 ADT and 23,265 ADT for Pawnee Avenue.

CONFORMANCE TO PLANS/POLICIES: The Wichita Land Use Guide map and the South Central Neighborhood Future Land Use concept both depict this site as appropriate for commercial uses. The City's comprehensive land use plan contains location guidelines for commercial and office uses. In general these guidelines recommend that such uses should be located adjacent to arterial streets; employ site design features that limit noise and lighting; be located in planned centers; and that local, service-oriented offices be incorporated within or adjacent to neighborhood and community scale, commercial developments. The Plan also contains a public safety goal of providing residents with the highest quality and most efficient public safety services available, and a public safety objective of providing responsive public safety services to meet the needs of existing residents and future new growth.

The South Central Neighborhood Plan, adopted in 2006, contains an area of approximately 1.8 square miles. The boundaries are Kellogg on the north, the Arkansas River on the south and west, and Washington and the railroad tracks, from Pawnee to the Arkansas River, on the east. During the development of the neighborhood plan, surveys were handed out to gauge the community's opinion regarding neighborhood revitalization issues in the South Central Neighborhood. One common response for improvements along the Broadway Avenue corridor included the reduction of the number of used car lots. When Highway 81 was rerouted to I-135 in the 1980's, many service stations and other businesses became vacant, which were subsequently converted into used car lots. A good number of these used car lots have not been kept up and are deteriorating, creating an unsafe atmosphere and ruining the visual quality of the corridor.

A goal for the South Central Neighborhood is new business development. According to this goal that has been set for the neighborhood, residents and the City want to see the development of a mixture of new businesses. Many of the business properties in the neighborhood are developed with motels, used car lots, and bars that do not provide direct goods and services to the neighborhood and may create negative impacts on residential areas. Businesses that provide jobs to neighborhood residents, increase the convenience of goods and services for neighborhood residents, and provide unique, multi-cultural shopping areas for the entire community are needed in the neighborhood. Many business properties in the neighborhood are vacant or underutilized, and significant opportunities exist for these properties to be developed with new businesses.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be DENIED. This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: There is a mix of zoning and uses in the general area. Properties are zoned TF-3 Two-family Residential, GC General Commercial and LC Limited Commercial. Uses range from low-density residential, restaurants, repair stores and retail commercial uses. The application area is about 500 feet from a multi-lane arterial intersection carrying over 23,000 average daily trips. The residential uses to the north are buffered from the proposed use by other commercial uses along Pawnee Avenue.
2. The suitability of the subject property for the uses to which it has been restricted: The subject site is current vacant, with no existing buildings. For this particular site, other development opportunities are available, other than a used car lot, which are already numerous along the Broadway Avenue corridor. More desirable uses, other than a used car lot, can be developed on this piece of vacant land. There is not much developable, vacant land available along the Broadway Avenue corridor, and with what is available; a mix of different types of commercial uses, increasing the convenience of goods and services, would be encouraged.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Approval of the request will add another used car dealership along the Broadway Avenue corridor, a use that is not desired by the neighborhood residents and the organizers of the South Central

Neighborhood Plan. Currently, there are about fourteen (14) used car dealerships between the 2000 block and 3000 block (about 1 mile) of Broadway Avenue and two (2) more between Broadway Avenue and I-135 (also about 1 mile) along Pawnee Avenue.

4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: Denial of the request could cause an economic hardship for the current property owner since they would lose out on this particular transaction. Also, denial of the request would have no effect on the surrounding neighborhood since the subject site is vacant, but permits a wide variety of retail.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: This current application for a used car dealership is not consistent with the overall goals of the South Central Neighborhood Plan. Residents of this neighborhood have emphatically stated that they do not want any more used car dealerships along the Broadway Avenue corridor. An increased mix of businesses that would provide convenient access to goods and services would be more desirable in this neighborhood and is possible for this particular site.
6. Impact of the proposed development on community facilities: No negative impacts are identified.

DERRICK SLOCUM Planning Staff presented the staff report.

DUNLAP asked about closings of car lots in the area?

SLOCUM responded that currently three are inactive.

ALDRICH asked if DAB III had heard the case?

SLOCUM responded that the case was scheduled to be heard next week (2/7/07).

HILLMAN clarified that DAB III had heard two other used car lot cases and recommended denial on both cases.

SLOCUM responded that was correct.

TERRY SMYTHE, agent for the contract purchaser, Roger McMennamy, said they are not in agreement with staff comments. He referred to the Staff Report, pages 3 and 4, and made the following comments. He stated that the application was in conformance to plans and policies including the Wichita Land Use Guide because this was an appropriate location for a used car lot. He said the application was in conformance with the City's Comprehensive Plan because the area was zoned for commercial uses. He said the Kinkaid Community Unit Plan, where the property was located, provided restrictions limiting noise and lighting. He said this was a small two-acre site and that it would actually promote public safety because of the nearby bus stop. He mentioned that the South Central Survey spoke about cleaning up the car lots and that there was not enough code enforcement in the area. He said this lot would be a very clean operation and referred the MAPC to a handout, which depicted several pictures of lots currently operated by the applicant. He said one of the goals of the South Central neighborhood initiative was new business development. He said the applicant would be taking a vacant property and developing it into a new business. He also stated that the applicant had selected this site based on the results of a demographic survey. He said the site is separated from homes by Limited Industrial zoning to the north, and reiterated that the site is currently zoned General Commercial, with restrictions required by the Kinkaid CUP. He said the residences adjacent to the area are buffered from the site. He also noted that there was not much developable, vacant land along Broadway. He said they feel they meet all the locational guidelines and that because of the bus stop location, they also feel denial would affect public health and safety.

ROGER MCMENNAMY, PRESIDENT AND CEO OF GUARANTEED AUTO FINANCING, 4400 Champions Blvd, Rogers, AR, said the company had a \$700 million market capitalization; that they currently operated ten locations in several different cities in four states; and that last year they did \$70 million worth of business. He said they will be opening additional facilities in February, March and June and hoped to open the Wichita location in August. He added that two more facilities were scheduled to

open in Oklahoma later in the year. He said he was fully aware that some used car dealers have a bad image, but that they did not believe they fit that mode because they provided nice, new facilities and that new facilities brought new investment to the community. He said they sell high quality, clean reconditioned vehicles. He added that they spent time studying the demographics of the area and that the study indicated that the absolute best place to locate their business was Pawnee and Broadway. He said this was based on the residential make up within three and ten-mile radiuses of the location. He said they serve lower income individuals with damaged credit and provide them with an opportunity to have transportation when they probably couldn't get a loan from a conventional lender. He said they provide a service contract on every vehicle sold of six months or 6,000 miles. He said the neighborhood needs new construction and that they are going to invest \$1million into the site. He said they would hire 11 employees locally, but that the manager would come from outside the area. He said the neighborhood needs healthy competition. He acknowledged that there were a lot of car lots on Broadway and referenced a situation that occurred in Tulsa, Oklahoma four years ago where market forces and strong competition reduced the number of undercapitalized dealers by nineteen. He said they believe undercapitalized dealers will eventually shut down and go out of business and that fewer and better car dealers would drive the market force.

ALDRICH asked if the application was denied, did they have an alternate site?

MCMENNAMY said although they had looked at other sites this was absolutely the best site, and that if the application was not approved they would either delay or totally abandon the plan to enter the market in Wichita. He said they do not have an alternative site selected.

Responding to a question from **HENZTEN** concerning locations of the six facilities to be opened this year, **MCMENNAMY** said the first three were in Arkansas, one in Wichita and two in Oklahoma.

DALE CHURCHMAN, 1357 South Broadway, President, Implementation Committee for the South Central Neighborhood Plan, said the plan had been adopted by the City and the County and the neighborhood, and they felt it was the best plan in Wichita. He quoted from the Plan Survey concerning improving the quality of the neighborhood by reducing the number of used car lots, hotels and bars. He said between Kellogg and the John Mack Bridge, an area of eighteen blocks, there are currently nineteen used car lots. He noted that three were not active at the present time, but added that this represented one used car lot per block. He said currently there are four car lots around Pawnee and Broadway and that this would make five. He said the Plan recognized the need for new businesses, but they wanted businesses that would serve the residents such as medical and dental buildings/offices and others. He said the South Central neighborhood is mainly residential. He said car lots were better located along major highways, not in residential areas. He concluded by saying that they certainly didn't feel like they needed more used car lots.

VICKI CHURCHMAN, 1357 South Broadway, Secretary, Implementation Committee for the South Central Neighborhood Plan, said the applicant mentioned that their car lot was nicer and better managed, and stated that they weren't denying that claim. She said the problem was the fact that once a car lot has been allowed, it cannot be disallowed. She said currently there are nineteen active and three inactive car lots on Broadway. She asked, please no more; that currently there was more than enough for this small area. She said another fact was the major drainage problem in the area. She referred to the aerial of the location and commented that these two small parcels were the only two pieces of land in that entire area. She said the rest was cement and with that amount of cement, there can be no drainage.

WARNER asked if a drug store was located on the land and it was paved, would she oppose that?

CHURCHMAN said she wouldn't be happy with it. She said people in the area overwhelmingly cited one of the major things they wanted to limit was car lots.

TERRY SMYTHE, referred to the business summary provided with the handout. He said Broadway was a major commercial corridor; that demographics were used to select the location; and that was why this location was chosen. He referenced the car lots that were eyesores, and stated that more code enforcement was needed in the area. He acknowledged that the neighborhood had spent a lot of time coming up with a good plan, but mentioned that only seventy-six responses were received out of a

possible 2,000 surveys, which represented about a 4% response rate. He said they felt good, strong competition in the right area will clean up Broadway. He reiterated that they felt the application was in compliance with the Wichita Land Use Guide, the South Central Neighborhood Plan future land use concept, the Comprehensive Plan, and the Kinkaid Community Unit Plan. He said this is a new business that will generate new investment, which he said was one of the goals of the South Central Neighborhood Plan. He concluded by stating that this was the proper location for the request.

Responding to a question from **DUNLAP**, **MCMENNAMY** stated that they were not associated with the company in Derby with a similar name.

DUNLAP asked what their finance rate was compared to the usury rate.

MCMENNAMY said they charged 11.15% in Arkansas and 16.99% in Oklahoma and Missouri, which were well below the usury rates. He said he thought Kansas had a 24% usury cap, and that they would probably charge 16.99%.

MOTION: To approve an additional one and one-half minutes for the applicant's rebuttal.

DOWNING moved, **MITCHELL** seconded the motion, and it carried (10-0).

MCMENNAMY commented that they are a finance company in addition to being a car lot. He said clients come into the store to make their payments, which makes it convenient for them because the lot is located in the community. He said they are a neighborhood business and that they get to know the residents. He said the lot does not back up to anyone's residence. He said he believes this business is one of the solutions for the problem the neighborhood representatives talked about. In response to the drainage issue, he commented that they would be required to meet drainage standards or the development would not be approved. He concluded by stating that there was a large park west of Broadway at this corner, and that open land would not be impacted by this development.

MOTION: To approve the application.

MITCHELL moved, **ANDERSON** seconded.

DUNLAP said he would support the motion because he did not believe that vacant land was better than a going business. He said if the applicant does it better than what is currently being done on South Broadway, that it will reduce the number of used car lots. He added that this lot was not located near residences. He concluded by saying that he did not vote for the South Central Neighborhood Plan because he felt it was too restrictive.

ALDRICH said he voted for the South Central Neighborhood Plan because it was what the residents in the community wanted. He said they voiced the opinion that "enough is enough" when it comes to car dealerships. He said he would not support the motion to approve the application.

HILLMAN mentioned the thought and effort behind the neighborhood planning process and study of land utilization. He said he felt the timing of this application was totally wrong. He mentioned the nineteen plus car lots in the area and how the neighborhood worked with the City to help develop long-term plan for the area. He said he felt the City needed to help get the area back into a reasonable balance. He said adding more used car lots to the area makes no sense. He said if they work to revitalize the area, they probably will end up with 3-4 quality used car lots. He said the South Central Neighborhood Plan is a long-term plan and that this short-term request does not fit in with that. He said he thought the timing was wrong recommend not approving the motion.

GISICK said since it has been such a short amount of time since the plan was created and not much time for implementation, and he did not want to discourage other neighborhoods from developing their own plans, he would not recommend approval of the motion.

HENTZEN said he had his business down in this area for forty years, and that the area never got much attention. He said he was especially glad to see the neighborhood get together and start talking. He

acknowledged that there were a lot of auto dealers on Broadway on small lots, but asked the question what would be on the lots now if auto dealers weren't there? Boarded up buildings with broken windows? He said not all dealers are bad. He said Broadway was a commercial thoroughfare where auto dealers need to be so people can see their merchandise and the dealers can sell their products. He said he was torn on whether to vote for or against the application. He mentioned handling the drainage problem and said he felt it was better to have something on the lot than nothing. He concluding by saying that he wanted to see the area improved.

Responding to a question from **HILLMAN** concerning the interest rate, **MCMENNAMY** said the 16% was an annual percentage rate.

ALDRICH reminded the commission that they voted to deny a similar request a few weeks ago.

WARNER said the applicant is not requesting a zone change; that the property is zoned for commercial use; therefore, he would support the motion to approve the request.

SUBSTITUTE MOTION: To deny the request.

GISICK moved; **ALDRICH** seconded the motion, and it failed (3-7). **ANDERSON, HENTZEN, MITCHELL, WARNER, DOWNING, DUNLAP, MCKAY** – No.

MITCHELL moved with the original motion of approval of the application, **ANDERSON** seconded the motion, and it carried (6-4). **ALDRICH, GISICK, HENTZEN** and **ALDRICH** – No.

The Metropolitan Area Planning Department informally adjourned at 2:30 p.m.

State of Kansas)
Sedgwick County)^{ss}

I, John L. Schlegel, Secretary of the Wichita-Sedgwick County Metropolitan Area Planning Commission, do hereby certify that the foregoing copy of the minutes of the meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission, held on _____, is a true and correct copy of the minutes officially approved by such Commission.

Given under my hand and official seal this _____ day of _____, 2007.

John L. Schlegel, Secretary
Wichita-Sedgwick County Metropolitan
Area Planning Commission

(SEAL)